

## **REMARKS**

1. In response to the Office Action mailed May 5, 2006, Applicants respectfully request reconsideration. Claims 1-29 were originally presented for examination. Claims 1-29 were rejected in the outstanding Office Action. Claim 26 was objected to. Claims 3, 7, and 21 have been canceled. No claims have been added. Claims 1, 2, 4, 5, 6, 8, 9, 20, 22, 25, and 26-28 have been amended. Thus, upon entry of this paper, claims 1-2, 4-6, 8-20, and 22-29 will be pending in this application. Of these twenty-six (26) claims, three (3) claims (claims 1, 20 and 25) are independent. Based on the above Amendments and following Remarks, Applicants respectfully request that the outstanding objections and rejections be reconsidered, and that they be withdrawn.

### ***Art of Record***

2. Applicants acknowledge receipt of form PTO-892 identifying additional references made of record by the Examiner.
3. Applicants thank the Examiner for returning form PTO-1449s and PTO/SB/08s filed by Applicants on November 24, 2004, February 28, 2005, and August 17, 2005 which have been initialed by the Examiner indicating consideration of the references cited therein.

### ***Drawings***

4. Applicants note with appreciation the Examiner's indication that the drawings filed on June 26, 2003 have been accepted as formal drawings.

### ***Objections to the Specification***

5. The Examiner objected to the disclosure for informalities. Applicants have amended the disclosure on page 1 line 6 and accordingly respectfully request that the Examiner reconsider and withdraw the objection to the specification.

### ***Claim Objections***

6. The Examiner objected to the claim 26 for informalities. Applicants have amended

claim 26 and accordingly respectfully request that the Examiner reconsider and withdraw the objection to the specification.

***Claim Rejections***

7. Independent claims 1, 20 and 25 and dependent claims 2-6, 11-19, 26 and 29 have been rejected under 35 U.S.C §102(b) as being anticipated by U.S. Patent No. 6,617,872 to Vogley (hereinafter, "Vogley"). Also, dependent claims 7-10, 21-24, 27 and 28 have been rejected under U.S.C §103(a) as being unpatentable over Vogley in view of U.S. Publication No. US2003/0130969 to Hawkins, et al. (hereinafter, "Hawkins"). Based on the above Amendments and following Remarks, Applicants respectfully request that these rejections be reconsidered, and that they be withdrawn.

8. Claim 1, as amended, recites, in part, "a baseboard management controller; and a digital frequency synthesizer configured to communicate with said controller and generate one or more test frequencies for application to one or more components in response to commands from said baseboard management controller; wherein said baseboard management controller is configured to monitor a response of said electronic system to said test frequencies." In rejecting claim 1, the Examiner relied on Vogley as allegedly disclosing a controller and digital frequency synthesizer as recited by original claim 1. For the below discussed reasons, Applicant respectfully submits that Vogley fails to teach a BMC and digital frequency synthesizer as recited by amended independent claim 1.

9. Vogley is directed to a integrated circuit test arrangement for testing an integrated circuit device at a variety of high clock rates. (*See*, Vogley at Abstract.) In the system of Vogley, individual integrated circuits (24 and 25) are plugged into test sockets (30 and 31). (*See*, Vogley at col. 2 lns. 57-60.) When an integrated circuit device, is to be tested a program is loaded into a microprocessor (44 and 45) associated with the integrated circuit device to be tested. (*See*, Vogley at col. 3 lns. 35-38.) The integrated circuit device is then tested and test results are stored by the microprocessor (44 and 45). (*See*, Vogley at col. 5 lns. 13-15.) As such, Vogley only discloses the microprocessor obtaining results for the individual integrated circuit device the microprocessor is associated with. Vogley accordingly does not teach or suggest that this microprocessor monitors a response of the electronic system to the test values.

10. Applicant therefore respectfully submits that amended claim 1 is in condition for

allowance for at least the reason the Vogley fails to teach or suggest [a] “baseboard management controller [that] is configured to monitor a response of said electronic system to said test frequencies,” as recited by claim 1. Applicant therefore respectfully requests that the Examiner reconsider and withdraw the rejection to claim 1 for at least this reason.

11. Applicant also respectfully submits that Hawkins, a secondary reference relied on by the Examiner in rejecting dependent claims 9-12 and 17 does not cure this defect. Although, Hawkins broadly discloses a BMC, it does not disclose margin testing nor monitoring the results of a system to margin testing.

12. Applicant accordingly respectfully submits that claim 1 is in condition for allowance for at least the reason that the cited references, whether taken alone or in combination, teach or suggest [a] “baseboard management controller [that] is configured to monitor a response of said electronic system to said test frequencies,” as recited by claim 1. Applicant therefore respectfully requests that the Examiner reconsider and withdraw the rejection to claim 1 for at least this reason.

***The Examiner has Failed to Provide Evidence of a Motivation to Combine***

13. The §103 rejections are *prima facie* improper because they provide no appropriate basis for combining Vogley and Hawkins. As set forth in the Manual of Patent Examining Procedure (MPEP) at § 706.02(j), “To establish a *prima facie* case of obviousness . . . there must be some suggestion or motivation, ***either in the references themselves or in the knowledge generally available to one of ordinary skill in the art***, to modify the reference or to combine reference teachings (emphasis added) . . . The teaching or suggestion to make the claimed combination and the reasonable expectation of success ***must both be found in the prior art and not based on applicant’s disclosure*** (emphasis added). *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).”

14. The Office Action attempts to justify combining Vogley with Hawkins based on the following conclusory statement:

It would have been obvious at the time the invention was made to one of ordinary skill in the art to modify Vogley to include the teachings of Hawkins because including a Baseboard Management Controller (BMC), implementing an Intelligent Platform Management Interface (IPMI) protocol, including an I<sup>2</sup>C-based bus, wherein said I<sup>2</sup>C-based bus is an IPMB, bus, and that said computer system would have

allowed the skilled artisan to provide a star intelligent platform management bus topology. (*See*, Office Action at pg. 8.)

15. The above quoted conclusory statement fails to properly identify any text in Vogley, Hawkins, or any other reference that would provide any motivation for combining Vogley with Hawkins. Rather, the Examiner merely identifies particular elements (e.g., a BMC) disclosed by Hawkins, and then makes the conclusory statement that it would be obvious to combine these elements with Vogley. The Examiner, however, has identified nothing whatsoever that shows why someone would be motivated to combine the elements of Hawkins with Vogley. For example, the Examiner identified no teaching in Hawkins, or any other reference, explaining why someone would be motivated to use the BMC of Hawkins in place of the microprocessors of Vogley. Rather, the Examiner has used impermissible hindsight to pick and choose elements from Hawkins and then made the unsupported conclusory allegation that it would be obvious to combine these elements with Vogley.

16. As held by the Federal Circuit in *In re Lee*, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002), specific reasons must be shown in the art suggesting a combination of references. (See also *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) (“[P]articular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed.”); *Also see, In re Rouffet*, 149 F.3d 1350, 1359, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998) (“[E]ven when the level of skill in the art is high, the Board must identify specifically the principle, known to one of ordinary skill that suggests the claimed combination.”)).

17. As such, because the Examiner has failed to provide evidence of a motivation to combine Vogley and Hawkins, Applicant respectfully requests that the Examiner reconsider and withdraw the rejections under §103 for at least this additional reason.

18. Further, if the Examiner is relying on his own personal knowledge to supply this missing motivation to combine the references, Applicant requests that the Examiner provide an affidavit as required under pursuant to 37 C.F.R. §1.104(d)(2) (“when a rejection in an application is based on facts within the personal knowledge of an employee

of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee ....”).

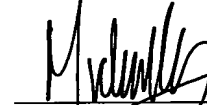
***Dependent Claims***

19. The dependent claims incorporate all of the subject matter of their respective independent claims and add additional subject matter which makes them *a fortiori* independently patentable over the art of record. Accordingly, Applicant respectfully requests that the outstanding rejections of the dependent claims be reconsidered and withdrawn.

***Conclusion***

20. In view of the foregoing, this application should be in condition for allowance. A notice to this effect is respectfully requested.

Respectfully submitted,



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